



FEDERAL ELECTION COMMISSION
Washington, DC 20463

RECEIVED
FEDERAL ELECTION
COMMISSION
SECRETARIAT

2001 APR 25 P 4: 25

April 25, 2001

MEMORANDUM

AGENDA ITEM

For Meeting of: 5-03-01

TO: The Commission

THROUGH: James A. Pehrkon
Staff Director

FROM: Lois G. Lerner
Acting General Counsel

N. Bradley Litchfield
Associate General Counsel

Michael G. Marinelli
Staff Attorney

SUBJECT: Draft AO 2001-06

Attached is a proposed draft of the subject advisory opinion. We request that this draft be placed on the agenda for May 3, 2001.

Attachment

1 ADVISORY OPINION 2001-06

2
3 Erik Michelsen, Treasurer
4 Maryland Green Party
5 PO Box 2230
6 Annapolis, MD 21404
7

DRAFT

8 Dear Mr. Michelsen:
9

10 This refers to your letters dated March 29, 2001, and August 30, 2000, requesting
11 an advisory opinion concerning the status of the Maryland Green Party ("the Party") as a
12 State committee of a political party under the Federal Election Campaign Act of 1971, as
13 amended ("the Act"), and Commission regulations.

14 Your request includes various documents including one document which serves as
15 both the Party bylaws and the Party constitution (the "Bylaws"). This document is also
16 available through the Party's website.¹ This governing document details various aspects
17 of the organization of the Party such as the manner in which the Party, using several
18 different subgroups including its Coordinating Council, engages in various activities; for
19 example, helping to select Party candidates for Statewide office. The Bylaws further
20 detail the procedures for holding the Party's various meetings such as its annual meeting,
21 and the State nomination convention at which the Party chooses the Green Party
22 Presidential candidate that it will support at the National Green Party Convention. You
23 state that the Party has successfully placed several candidates for Federal office on the
24 ballot in the 2000 elections. Information provided by the State Board of Elections of
25 Maryland confirms that the Party had placed three candidates on the Federal ballot in
26 2000. These candidates were Ralph Nader for U.S. President, Winona LaDuke for Vice

¹ The address for the web site is <http://www.mdgreens.org/>.

1 President, and David M. Gross for U.S. Representative from the 1st Congressional
2 District.²

3 Your request states that the State party is not officially affiliated with either of the
4 two national Green party organizations, Greens/Green Party USA and the Association of
5 State Green Parties. However, the request includes letters from both of these
6 organizations recognizing the status of the Party as the sole state-wide representative of
7 the Green party political movement in the State of Maryland. The letter from the
8 Association of State Green Parties also confirms the participation of the Maryland Green
9 Party in the Association's June 2000 Denver Presidential nomination convention which
10 formally nominated Mr. Nader for U.S. President.³

11 Under the Act and Commission regulations, the term "State committee" means the
12 organization which, by virtue of the bylaws of a political party, is responsible for the day-
13 to-day operation of such political party at the State level, as determined by the
14 Commission. 2 U.S.C. §431(15); 11 CFR 100.14. The definition of State committee also
15 requires the existence of a political party. The term "political party" is defined under
16 2 U.S.C. §431(16) and 11 CFR 100.15 as an association, committee, or organization
17 which nominates a candidate for election to any Federal office whose name appears on
18 the election ballot as the candidate of such association, committee, or organization. An
19 individual becomes a candidate for purposes of the Act if he or she receives contributions

² The Party also has a Federal committee, the Maryland Green Party PAC, which filed its statement of organization with the Commission on June 8, 2000.

³ The Commission notes the description and statements regarding the Party's relationships with the national Green party organizations. However, the requester has not posed any questions as to the Party's affiliated status with these organizations. Therefore, this opinion will not address issues regarding application of the Act or Commission regulations to the possible affiliation of the Maryland Green Party with any other political committee or organization within the Green party movement at the local, State or national levels. See 2 U.S.C. §§433(b)(2), 441a(a)(4), 441a(a)(5)(B); and 11 CFR 110.3(b), 110.3(c)(1).

1 aggregating in excess of \$5,000, or makes expenditures in excess of \$5,000. 2 U.S.C.
2 §431(2).⁴

3 As stated in the Act and Commission regulations, the first element of the
4 requirements for State committee status is that the bylaws of a political party establish
5 that the Maryland Green Party is responsible for the day-to-day operation of such political
6 party at the State level.⁵ As noted above, the Party's governing document sets out an
7 identifiable organizational structure for the Party with varying responsibilities. *See*
8 Bylaws, articles 4, 6, 7 and 10. As they delineate activity commensurate with the day-to-
9 day functions and operations of a political party on a State level, the Bylaws meet the
10 requirements of 2 U.S.C. §431(15) and 11 CFR 100.14, and they are consistent with the
11 State party rules reviewed in previous situations where the Commission has affirmed the
12 State committee status of a political organization. *See* Advisory Opinions 2001-02, 2000-
13 39, 2000-35, 2000-27, and 2000-21.⁶ Therefore, the Commission concludes that the
14 Party meets the first element.

⁴ Federal candidates must designate a principal campaign committee within 15 days after qualifying as a candidate, and the committee also becomes subject to various registration, recordkeeping, and reporting requirements. 2 U.S.C. §§432(e)(1), 433, and 434(a); 11 CFR 101.1, 102.1, and 104.1.

⁵ The Commission has considered either the bylaws of State party organizations or other governing documents in making these determinations. Advisory Opinions 2000-39, 2000-35, 2000-27, 2000-21, 2000-14 and 1999-26. In reviewing State party affiliates of entities that qualified as national committees of political parties under 2 U.S.C. §431(14), the Commission has looked to the existence of a State affiliate agreement which "delineates activities commensurate with the day-to-day operation of [a political party] on a State level," and then concluded that "[t]o the extent the relationship between [a political party] and an affiliate is based on this agreement and the affiliate displays evidence of activity by obtaining ballot access for both its Presidential and other Federal candidates, . . . [that] particular affiliate is a State Committee of the [political party]." Advisory Opinions 1999-26 and 1992-30. The Commission has also found State party committee status with respect to organizations affiliated with national political parties that had not achieved national committee status or organizations that had no affiliation with any national organization. State committee status in these opinions was based on the existence of State bylaws detailing activities commensurate with the day-to-day operation of a party on the State level, and the placement of at least one Federal candidate on the ballot. Advisory Opinions 2001-02, 2000-39, 2000-35, and 2000-27.

⁶ The fact that the Party is not formally affiliated with a recognized national committee or a national party organization does not prevent its recognition as a State committee of a political party. *See* Advisory Opinions 2001-02, 2000-39, 2000-35, and 2000-27.

